

**National Conference Center
ZMAP 2007-0004**

PROFFER STATEMENT

September 25, 2009

Pursuant to Section 15.2-2303, Code of Virginia (1950), as amended (the "Code"), and Section 6-1209 of the Revised 1993 Loudoun County Zoning Ordinance, and as amended (the "Zoning Ordinance"), WXIII/Oxford DTC Real Estate, LLC, the Owner ("Owner") of the property described as Loudoun County Tax Map 50, Parcel 4 (MCPI 081-36-9067) on behalf of itself and its successors in interest, hereby voluntarily proffers that the development of approximately 46.61 acres of the property identified as "Proposed Zone PD-H4" on Sheet 4 of the Concept Development Plan (the "Property") and subject to ZMAP 2007-0004 shall be in substantial conformity with the proffers as set out below. Approval of these proffers shall supersede all proffers approved with ZMAP 1994-0001 and ZCPA 1994-0002 as they pertain to the Property.

All proffers made herein are contingent upon approval of (i) ZMAP 2007-0004 and the rezoning of the Property to the Planned Development – Housing 4 ("PD-H4") zoning classification under the Zoning Ordinance, and (ii) the Concept Development Plan.

I. CONCEPT DEVELOPMENT PLAN

The development of the Property shall be in substantial conformance with the Concept Development Plan (the "CDP"), identified as Sheets 1, 4, 5, 6 and 7 of the National Conference Center Zoning Map Amendment Plan prepared by William H. Gordon Associates, Inc., dated July 2007, revised through September 25, 2009 and included as Exhibit A including the requested modifications pursuant to Section 6-1500 of the Zoning Ordinance as described in Exhibit B. Minor modifications to the locations of the proposed roads, uses, and facilities shown on the CDP shall be permitted to address grading, drainage, environmental, cultural and natural features, development ordinance requirements, and other final engineering considerations.

II. DEVELOPMENT SCOPE

The maximum total number of residential units to be constructed on the Property shall be limited to 212 residential units. The mix of residential units may include up to 45 single family detached units, up to 105 townhomes and up to 62 multi-family units inclusive Affordable Dwelling Units ("ADUs") as required by Article 7 of the Zoning Ordinance. The ADUs will be dispersed among the single-family attached and multi-family units. The Owner reserves the right to develop the Property as a gated community. The Property will be developed using public water and sewer with such facilities provided to the Property at no cost to Loudoun County or to Loudoun Water.

Attachment 5

A-360

III. RECREATIONAL AMENITIES AND SIDEWALKS

A. Site Amenities

The Owner shall provide active and passive recreational amenities, including connection to an existing trail network, and sidewalks within the Property, as shown on the CDP. All green space, sidewalks and trails shown on the CDP shall be provided in conjunction with the development of the adjacent residential areas and the construction of the internal streets and necessary infrastructure. All sidewalks shall be 5 feet in width.

B. Lansdowne Sports Park – Tot Lot

The Owner shall dismantle and dispose of the existing tot lot at Lansdowne Sports Park, restore the area to a natural state and construct a new tot lot in an alternative location as shown on Sheet 4 of the Concept Development Plan. The tot lot shall be provided in the arrangement as shown on Exhibit C and shall be provided prior to the approval of the 25th residential zoning permit for the Property. As set out in Proffer IV. below, the Owner shall receive a capital facilities credit of \$30,000 for the cost of providing these improvements.

IV. CAPITAL FACILITIES

A. Capital Facilities Contribution

1. The Owner shall make a capital facilities contribution (subject to any changes implemented by the Virginia General Assembly and applicable to Loudoun County) for each market rate residential unit approved in this Application in the amount of \$59,470 per single-family detached residential unit, \$40,385 per single-family attached residential unit and \$23,758 per multi-family residential unit. Said per unit contributions shall be made in conjunction with the issuance of zoning permits for each market rate residential unit.

2. The Owner shall receive a credit of \$30,000 towards the proposed relocation of an existing tot lot at Lansdowne Sports Park described in Proffer III.B. above. Said credit shall be discounted from the capital facilities contribution made for the first market rate single family-attached or single-family detached unit developed on the Property.

B. Open Space Contribution

The Owner shall make an open space contribution of \$526.35 for each residential unit constructed on the Property. Said contribution shall be paid prior to or concurrent with the issuance of each residential zoning permit and shall be used by the County to pay for regional recreational facilities or open space easements in the Ashburn Community.

V. WORKFORCE HOUSING

The Owner shall make a contribution of \$500 per market rate dwelling unit constructed on the Property to the County for the purpose of assisting qualified owners with a household income of between 0% and 100% of the Washington Area Median Income to purchase homes in

Loudoun County. This contribution shall be made prior to or concurrent with the issuance of each market rate residential zoning permit.

VI. TRANSPORTATION

For the purposes of the following proffers, the term “construct” shall mean construct or bond for construction.

A. Road A – Connection to National Conference Center Loop Road Only (not to Kipheart Drive)

The Owner shall dedicate, at no cost to the County, sufficient right-of-way within the Property, as well as easements located outside of the right-of-way, to construct Road A as a 2-lane undivided road from the southern Property line to the intersection with the existing National Conference Center’s existing loop road as shown on Sheet 5 of the CDP. The Owner shall construct Road A as a 2-lane undivided road, in accordance with County and VDOT street standards. The dedication of right-of-way and construction of Road A may be provided in phases. However, residential zoning permits shall not be issued for more than 79 units at the Property unless and until Road A has been extended to connect to the entrance to the National Conference Center’s existing loop road as shown on Sheet 5 of the CDP.

B. Road A – Connection to Kipheart Drive

1. The Owner shall dedicate, at no cost to the County, sufficient right-of-way within the Property, as well as easements located outside of the right-of-way, to enable the construction of Road A from the National Conference Center’s existing loop road to connect with Kipheart Drive as shown on Sheet 5 of the CDP.

2. The Loudoun County Board of Supervisors owns that area of land located between the northwest Property line and Kipheart Drive. This land is part of the Lansdowne Sports Park, all shown on Sheet 5 of the CDP.

3. Subject to the timely granting by the Board of Supervisors (through that small area of land located between the Property and Kipheart Drive that is part of the Lansdowne Sports Park, shown on Sheet 5 of the CDP) of all necessary right of way and access and construction easements (at no cost to the Owner), the Owner shall construct Road A from the National Conference Center’s existing loop road to connect with Kipheart Drive, as shown on Sheet 5 of the Concept Development Plan, as a 2-lane undivided road, in accordance with County and VDOT street standards.

4. Concurrent with the County’s release of the portion of Lansdowne Sports Park required for right-of-way necessary for the extension of Road A to Kipheart Drive, the Owner shall dedicate Land Bay O-6 to Loudoun County Department of Parks, Recreation and Community Services (“PRCS”), at no cost to the County, for purposes of public parkland as part of Lansdowne Sports Park.

5. Should the Board of Supervisors not grant the necessary right of way and easements by the time the Owner has requested 79 residential zoning permits for the Property, the obligations set out in Proffer VI.B.1, VI.B.2., VI.B.3. and VI.B.4 shall expire and construction of the remaining residential units may proceed without the connection of Road A with Kipheart Drive.

C. Road B

Traffic associated with the PD-SA district to the north of the Property shall not be permitted to use Road B, as depicted on Sheet 4 of the CDP. Only emergency vehicles shall be permitted from passing from the cul-de-sac at the eastern edge of Road B to the internal loop road within the PD-SA district.

D. Transit Capital Cost Contribution

The Owner shall contribute \$575 per dwelling unit to the County to be used at the discretion of the Board of Supervisors for the purchase of transit buses, for other capital transit-related projects, or for regional transportation improvements in the Suburban Policy Area, as defined in the Revised General Plan. This contribution shall be made prior to or in conjunction with the issuance of each residential zoning permit.

E. Existing National Conference Center Loop Road

Prior to the issuance of the first residential zoning permit for the Property, the Owner shall confirm in writing to the County that the existing loop road depicted on the CDP within the PD-SA district shall be improved to accommodate two-lanes of traffic. This improvement may be achieved through the granting of an FSM waiver.

VII. ENVIRONMENT

A. Energy Star Qualified Homes – Single-Family Attached and Single-Family Detached

All single family homes developed on the Property shall achieve Energy Star qualification as provided by the U.S. Environmental Protection Agency or similar standard if Energy Star qualification is no longer applicable.

B. Sustainable Design – Multifamily

1. All toilet, shower head and sink fixtures and fittings provided in the multi-family building proposed on the Property (that is prior to initial sale or lease of each unit) shall have earned the U.S. EPA's Water Sense label, or similar standard if Water Sense is no longer applicable. The Owner shall submit a statement to the County listing all Water Sense qualified components prior to issuance of the first residential certificate of occupancy for the multi-family building.

2. All clothes washers, dishwashers, ceiling fans and refrigerators provided in the multi-family building proposed on the Property (that is prior to initial sale or lease of each unit) shall have earned the U.S. EPA's Energy Star label, or similar standard if Energy Star is no longer applicable. The Owner shall submit a statement listing all Energy Star qualified components installed in the project prior to issuance of the first residential certificate of occupancy for the multi-family building.

3. All lighting fixtures and bulbs provided in the multi-family building proposed on the Property (that is prior to initial sale or lease of each unit) shall be energy efficient. Lighting in common areas, including lobbies, corridors and stairwells shall also include light sensors, motion sensors and/or timers to maximize energy efficiency lighting.

C. Tree Conservation Area

1. The Owner shall establish a tree save area in the location shown on the Concept Development Plan as the "Tree Conservation Area." Clearing in this area shall be permitted only for the construction of utilities and storm water management facilities and any such clearing shall be limited to the minimum area required for said construction.

2. A minimum of eighty (80) percent of the canopy within the cumulative Tree Conservation Area depicted on the CDP will be preserved, exclusive of stands of Virginia Pine over 25 years in age. In the event that the eighty (80) percent canopy threshold cannot be achieved within the designated Tree Conservation Areas, such lost canopy will be recaptured elsewhere onsite in locations to be designated at the discretion of the Owner in consultation with the County. Boundaries of all Tree Conservation Areas shall be delineated on the record plat recorded for each section of the development. Construction plans shall clearly define the limits of the tree save area and all such areas shall be clearly marked in the field. Tree protection fencing shall be placed outside the drip lines along the tree save area prior to commencing land-disturbing activities. The Owner reserves the right to remove, in consultation with the County, any dead, damaged, dying or diseased trees and vegetation, and any tree or vegetation that interferes with the construction, proper functioning and/or use of any utility or drainage easement, or creates a danger to property or persons.

3. If, during construction on the Property, it is determined by the Owner's certified arborist and/or the County's Urban Forester that any healthy tree located within the boundaries of any of the Tree Conservation Areas described in this proffer has been damaged during construction and will not survive, then the Owner shall remove each such tree and replace each such tree with two (2) 2½ - 3 inch caliper native, non-invasive deciduous trees. The species and placement of replacement trees shall be proximate to the area of each such damaged tree so removed, or in another area determined in consultation between the Owner and the County's Urban Forester.

4. The Home Owners Association ("HOA") documents shall include a provision that prohibits removal of trees in Tree Conservation Areas as shown on the record plat after construction has been completed by the Owner without specific permission of the County Forester except as necessary to accommodate Forest Management Techniques, performed by or

recommended by a professional forester or certified arborist, that are necessary to protect or enhance the viability of the canopy. Such Management Techniques may include, without limitation, pruning and the removal of vines, invasive species, trees uprooted or damaged by extreme weather conditions, and trees or limbs that are diseased, insect-infested, dead, or are considered a hazard to life or property. The HOA documents shall clearly state that such provisions prohibiting tree removal shall not be amended by the Owner or the HOA without written approval from the County, such approval not to be unreasonably conditioned, withheld or delayed. The record plat for each portion of the Property containing a Tree Conservation Area shall contain a note stating that the removal of trees within a Tree Conservation Area is prohibited except in accordance with the Declaration of Covenants.

D. Wetlands Mitigation

In the event that wetland mitigation is required for any wetland and stream impacts on the Property determined to be unavoidable in conjunction with the permitting process, the Owner shall provide wetland mitigation in the following priority order: 1) onsite, 2) within the same stream watershed and planning policy area, 3) within the same stream watershed within Loudoun County, and 4) elsewhere within Loudoun County, subject to approval of the Army Corps of Engineers and the Virginia Department of Environmental Quality. If no such areas are available within the County as verified by County Staff, the Owner shall be permitted to provide wetland mitigation outside of Loudoun County.

E. Erosion and Sediment Control

The Owner shall provide the following erosion and sediment control measures on the Property:

1. Super silt fence in all downstream perimeter locations of the Property and in upstream locations adjacent to Tree Conservation Areas.

2. Double the volumetric requirements of sediment traps and basins (286 cubic yards per acre), except that this volume may be reduced to avoid impacts to sensitive environmental features (e.g. streams, wetlands, forest cover, steep slopes.) as well as proposed building envelopes and pavement areas to ensure that the sub grade is not negatively impacted.

3. Expanded use of stabilization matting by increasing the velocity parameters from 4 to 7 fps to 3 to 7 fps within channel areas. This increase in velocity parameters may be achieved through use of sod is an acceptable alternative to stabilization matting.

F. Lighting

All lighting fixtures used in common areas and on roadways shall be fully shielded, directed inward and downward, and designed to prevent glare on adjacent properties. The maximum average illumination shall be in accordance with the applicable County requirements for the residential uses proposed for the Property.

G. Geographic Information System (GIS Information)

The Owner will provide digital data to the County for the Property's approved wetland delineation prior to the approval of the initial subdivision or site plan for the Property, whichever occurs first in time.

VIII. HOME OWNERS ASSOCIATION

A. Home Owners Association

The Property will be subject to a Home Owners Association ("HOA"), of which all property owners will be members, which will regulate use of the Property and will be responsible for establishing standards for the construction, landscaping, and use of privately owned land and structures. The HOA shall provide landscaping and lawn maintenance for all common areas, ensure snow removal for all private streets, and contract for adequate trash removal services. The HOA shall be responsible for the maintenance of all common recreational facilities and buildings, private streets, sidewalk, and trails not otherwise maintained by VDOT or the County.

B. Establishment of HOA

Prior to approval of the first residential record plat or site plan for the Property, whichever occurs first in time, draft documents for the establishment of the HOA shall be submitted to the County for review and approval. The HOA shall be established and a Declaration of Covenants shall be recorded in the land records of Loudoun County (the "Land Records") prior to approval of the first record plat or site plan, whichever is first in time.

C. Inclusion in Existing HOA

In the event the Property is annexed into and is subject to the Lansdowne on the Potomac HOA's Declaration of Covenants prior to the approval of the first residential record plat or site plan for the Property, whichever occurs first in time, there shall be no requirement to establish a new HOA for the Property. In this event, the applicable documents for such inclusion of the Property in the Lansdowne on the Potomac HOA shall incorporate responsibilities set forth in paragraph A above, and shall be submitted to the County for review and approval prior to the first residential record plat or site plan for the Property, whichever occurs first in time.

D. Sports-Plex/Community Center

1. If the Property is annexed into the Lansdowne on the Potomac HOA the Owner shall dedicate to said HOA the Sports-Plex/Community Center, as identified on the CDP.

2. If made, the dedication of the Sports-Plex/Community Center shall take place prior to the issuance of the 100th residential zoning permit for the Property.

3. In dedicating the Sports-Plex/Community Center, the Owner shall retain, through reasonable agreement with either the Lansdowne on the Potomac HOA, reasonable right of use of the Sports-Plex/Community Center, at no cost, by its guests and staff.

E. Garage Space Conversion Restriction

The Owner shall prohibit the conversion of any garage space associated with a residential unit used to meet the minimum number of parking spaces required at the Property, to any other use that would prevent or preclude the use of the garage for the storage of vehicles.

IX. EXISTING SURFACE PARKING LOTS

Following subdivision of the parcel described as Loudoun County Tax Map 50, Parcel 4 (MCPI 081-36-9067) to separate the Property from the National Conference Center property, two existing surface parking lots may continue to contribute to the parking needs of the National Conference Center as required by Section 5-1100 of the Zoning Ordinance. At no time shall the number of parking spaces provided for the National Conference Center fall below the number of spaces required by Section 5-1100 of the Zoning Ordinance.

X. FUTURE PARKING GARAGE

Prior to the issuance of the 100th residential zoning permit for single-family residential units at the Property, the Owner shall construct a parking garage to serve the National Conference Center.

XI. EMERGENCY SERVICES

A. Fire and Rescue Contribution

Prior to or in conjunction with the issuance of each residential zoning permit, a one-time contribution of \$120.00 per residential unit shall be paid to the County for distribution by the County to the primary volunteer fire and rescue companies providing service to the Property. Said contributions shall escalate on a yearly basis from the base year of 1988 and change effective each January 1 thereafter, based on the Consumer Price Index as published by the Bureau of Labor Statistics, U.S. Department of Labor, for the Washington-Baltimore, MD-VA-DC-WV Consolidated Metropolitan Statistical Area (the "CPI"). Contributions pursuant to this paragraph shall be divided equally between the primary servicing fire and rescue companies providing service to the Property. Notwithstanding the foregoing, at such time as incorporated volunteer companies no longer provide the primary fire and rescue services to the Property, the obligation to make the contributions required by this section shall cease. If only one of these services ceases to be provided by a volunteer company, then the contribution required by this section shall be halved and shall continue to be provided to the remaining volunteer company.

B. Sprinkler Systems

The Owner shall require all builders to offer sprinkler systems in all residential units served by public water as an option to all purchasers. Builders shall not be required to install such sprinkler system unless the purchasers choose to exercise such option prior to the start of construction and pay the sales price of the options associated with the purchase and installation of the sprinkler system.

XII. ESCALATOR

Unless otherwise specified herein, all cash contributions enumerated in these proffers shall be subject to an annual escalator in accordance with the CPI with a base year of 2009. This escalator shall take effect on January 1 of 2009 and change effectively each January 1 thereafter.

The undersigned hereby warrant that all owners with a legal interest in the Property have signed this Proffer Statement, that they, together with the others signing this document, have full authority to bind the Property to these conditions, and that the Proffers are entered into voluntarily.

Owner

**WXIII/Oxford DTC Real Estate, LLC, a
Delaware limited liability corporation**

By: _____(SEAL)

Name: _____

Title: _____

STATE OF _____)

) to-wit:

COUNTY/CITY OF _____)

The foregoing Proffer Statement was acknowledged before me this _____ day of _____, 2009, by _____.

Notary Public

My Commission Expires: _____

EXHIBIT A

CONCEPT DEVELOPMENT PLAN

EXHIBIT B

ZONING ORDINANCE MODIFICATIONS

Zoning Ordinance Section	<u>Revised 1993 Zoning Ordinance Requirement</u>	National Conference Center Proposed Modification
1. Section 1-205 Limitations and Methods for Measurements of Lots, Yards and Related Terms (A) Lot Access Requirements	<i>"No structure requiring a building permit shall be erected upon any lot which does not have frontage on a Class I, Class II, Class III road, or private access easement as specified in the individual district regulations, except as specifically provided for herein and the Land Subdivision and Development Ordinance (LSDO)."</i>	Owner proposes that these provisions be modified to permit access to single family detached units via private streets.
2. Section 4-110 Site Planning - Internal Relationships (B)	<i>"All arterial and collector streets serving a PD-H District, and all streets of any size serving residential (except townhouse and multifamily), commercial, office, institutional and industrial uses within a PD-H district, shall be designed and constructed to VDOT standards for inclusion in the state highway system."</i>	Owner proposes that these provisions be modified to permit access to single family detached units via private streets.
3. Section 3-511 Development Setback and Access from Major Roads (A) Private Streets	<i>"Roads, serving townhouse and multifamily uses only, may be designed and constructed to private streets standards set forth in the Facilities Standards Manual."</i>	Owner proposes that these provisions be modified to permit access to single family detached units via private streets.
4. Section 4-110 Site Planning - Internal Relationships (D)	<i>"Vehicular access to public streets, from off-street parking and service areas serving less than eighty (80) dwelling units, may be directly to the street via a single point of access. Vehicular access, from off street parking and service areas serving eighty (80) or more units, shall require two (2) or more points of access. Determination of number of the actual dwelling units served shall be based on normal routing of traffic anticipated in the development."</i>	Owner proposes that this provision be modified to permit the proposed 212 dwelling units to be served by a single point of access.

5. Section 4-110 Site Planning - Internal Relationships - Uses adjacent to single-family, or agricultural and residential districts or land bays allowing residential uses (I)(2)	<i>"Where residential uses in a PD-H district adjoin a single-family residential, agricultural, residential district or land bay allowing residential uses, the development shall provide for either.....(2) A permanent open space buffer along such perimeter at least fifty (50) feet in width, landscaped with a Type 2 Buffer Yard."</i>	Owner proposes that this provision be modified to eliminate the buffer yard between all residential land bays internal to the Property.
6. Section 4-109 Site Planning – External Relationships - Uses adjacent to single-family, or agricultural and residential districts or land bays allowing residential uses (C)(2)	<i>"Where residential uses in a PD-H district adjoin a single-family residential, agricultural, or residential district or land bay allowing residential uses, or a commercially zoned development approved subject to proffers prior to adoption of this ordinance, the development shall provide for either.....(2) A permanent open space buffer along such perimeter at least fifty (50) feet in width, landscaped with a Type 2 Buffer Yard."</i>	Owner proposes that this provision be modified to eliminate the buffer yard between all residential land bays internal to the Property. Further, the Owner proposes to reduce the perimeter buffer yard from 50 feet to 10 feet adjacent to the existing fitness facility.
7. Section 3-509 Additional Development Standards. (C) Minimum Buffer.	<i>"A permanent common open space buffer of fifty (50) feet in depth with a Category 2 Buffer Yard shall be provided where a development adjoins an existing or planned residential district, land bay or development which has a minimum allowable lot size of 6,000 square feet or greater."</i>	Owner proposes that this provision be modified to eliminate the buffer yard between all residential land bays internal to the Property.
8. Section 3-507(G) Minimum Buffer	<i>"A permanent common open space buffer of fifty (50) feet in depth with a Category 2 Buffer Yard (Section 5-1414(B)) shall be provided where a traditional development adjoins an existing or planned residential district, land bay or development which has a minimum allowable lot size of 6,000 square feet or greater. Such buffer may be included in open space calculations."</i>	Owner proposes that this provision be modified to eliminate the buffer yard between all residential land bays internal to the Property.

<p>9. Section 3-608 Additional Development Standards. (C) Minimum Buffer.</p>	<p><i>"A permanent common open space buffer of fifty (50) feet in depth with a Category 2 Buffer Yard shall be provided where a development adjoins an existing or planned residential district, land bay or development which has a minimum allowable size of 6,000 square feet or greater."</i></p>	<p>Owner proposes that this provision be modified to eliminate the buffer yard between all residential land bays internal to the Property.</p>
<p>10. Section 5-1103 General Location Requirements. (A) Parking Facilities.</p>	<p><i>"All parking facilities shall be provided on the same lot or parcel of land being served, or on a separate lot or parcel of land within five hundred (500) feet of the principal entrance of the building lot being served, if the zoning classification of such separate lot or parcel of land is the same as or less restrictive than the classification of the lot upon which the use is located."</i></p>	<p>Owner proposes that these provisions be modified to permit the use of an existing parking facility on a separate lot or parcel more than five hundred (500) feet from the principal entrance of the building lot being served.</p>